

ROSITA TRUJILLO

IBLA 75-249

Decided April 24, 1975

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer, W 47627.

Affirmed.

1. Oil and Gas Leases: Generally -- Oil and Gas Leases: Applications:
Generally -- Oil and Gas Leases: Direction to Lease.

The Department of the Interior has full and final authority to determine whether or not to issue oil and gas leases. Where the lands embraced within an oil and gas lease offer contain established archeological sites and in the opinion of the responsible Departmental officials oil and gas exploration activities would destroy or impair the sites, a lease offer is properly rejected, absent an affirmative showing on behalf of the offeror that exploration activities would not infringe upon the archeological resources of the area.

APPEARANCES: Don K. Marlin, President, Champion Oil Co., Inc., for the appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Champion Oil Company appeals from a decision of the Wyoming State Office, Bureau of Land Management, rejecting the oil and gas lease offer of Rosita Trujillo, W 47627, on the grounds that: (1) the lands applied for embrace two known archeological sites, and it is the belief of the district archeologist that the lands contain a number of undiscovered archeological sites, and that oil and gas exploration activities would be incompatible with the

maintenance of such sites; and (2) oil and gas development would adversely affect the scenic qualities of the Red Wall area on the east flank of the South Big Horn Mountains. ^{1/}

Noncompetitive oil and gas lease offer W 47627 was filed on September 3, 1974, for N 1/2 S 1/2, SW 1/4 SW 1/4 sec. 14; all sec. 22; W 1/2 W 1/2 sec. 23; W 1/2 NW 1/4, SE 1/4 NW 1/4 sec. 26; and N 1/2 sec. 27, T. 40 N., R. 85 W., 6th P.M., Natrona County, Wyoming. On September 6, 1974, the Chief, Branch of Lands and Minerals Operations, requested the District Manager, Casper, for recommendations regarding the advisability of granting the requested lease. By memorandum dated October 23, 1974, the District Manager provided support for his recommendation that a lease not be issued for the land. In substance his report stated:

Two archeological sites (AR-49-06-168 and AR-49-06-169) were located by this reconnaissance. Both of these sites are of a size and nature that preservation is recommended. Both sites are large but very fragile surface sites which would be destroyed by any surface disturbance such as that associated with oil and gas exploration. The total area of this lease application was not inventoried; however, the conditions are such (water, shelter, similarity to known high value sites, etc.) that a high number of significant sites would be expected.

The lands described in the lease application are an integral part of the unique scenic qualities found in the Red Wall area. The scenery is dominated by massive and colorful erosional landforms: The Red Wall and The Gray Wall. The lands are easily accessible [sic] to the general public and are near a major access route to the South Big Horns. Developments accompanying oil and gas exploration would seriously depreciate the scenic qualities of this area.

^{1/} On November 27, 1974, Rosita Trujillo assigned her offer to Champion Oil Company, Inc. While the assignment has not been approved, this Board has recently held that an assignee of an unapproved assignment has standing to appeal from decisions adverse to his interests. Haruyuki Yamane, 19 IBLA 320 (1975). Cf. Godfrey Nordmark, 65 I.D. 299 (1958).

We recommend that this area not be leased at this time to insure the preservation and protection of scenic qualities and both known and unknown cultural resource values within this area and the surrounding areas.

Pursuant to this recommendation the appellant's lease offer was rejected.

On appeal, Champion Oil Company argues that:

The lands in question would not be damaged by responsible oil and gas exploration which is proposed by Champion Oil Company, Inc. Said lands are remote, uninhabited, unused except for some grazing and would not affect any access route to any other lands. The exploration proposed is limited in scope and is expected to be relatively shallow. Any realistic visual inspection of the land would verify the reasons given in this statement.

No details, however, are provided that would rebut the statements of the District Manager.

[1] The Department of the Interior is vested with plenary authority to refuse to issue leases for oil and gas when it considers such issuance not to be in the public interest. Duesing v. Udall, 350 F.2d 748 (D.C. Cir. 1965); Exxon Co., 15 IBLA 345 (1974).

Section 1 of the Act of August 21, 1935, 49 Stat. 666, 16 U.S.C. § 461 (1970) states that "it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States." Section 2 of the Act, as amended, states that:

The Secretary of the Interior (hereinafter in this chapter referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 461 of this title, shall have the following powers and perform the following duties and functions:

- (a) Secure, collate, and preserve drawings, plans, photographs, and other

data of historic and archaeological sites, buildings, and objects.

(b) Make a survey of historic and archaeological sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

* * * * *

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

Thus, the Department of the Interior has an affirmative obligation to preserve archeological sites of significant values. Having been apprised of the existence of two known archeological sites and the belief of the responsible officials in the likelihood of the existence of other sites occurring within the lands embraced by oil and gas lease offer W 47627, it became the appellant's duty to clearly and convincingly show that oil and gas exploration activities would not have a detrimental effect on the archeological resources. Appellant's statements on appeal do not meet this burden. 2/

2/ We do not pass specifically on the objections raised by the State Office relating to the scenic qualities of the area. We do note, however, that appellant's statements as regards this matter are equally deficient.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

